

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

October 18, 1994

93-22
IN REPLY REFER TO:

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OCT 18 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

The Honorable Alfonse M. D'Amato
U.S. Senator
1259 Federal Building
P.O. Box 7216
Syracuse, NY 13261-7216

DOCKET FILE COPY ORIGINAL

Dear Senator D'Amato:

This letter responds to your correspondence on behalf of John C. Kelly regarding charges on his telephone bill and relating to information services provided on 800 numbers. Your letter, as well as the complaint of your constituent, has been referred to the Enforcement Division of the Common Carrier Bureau for review. The Enforcement Division will communicate with your constituent upon completion of its review.

The Telephone Disclosure and Dispute Resolution Act (TDDRA) was enacted by Congress in 1992 and required both the Federal Communications Commission and the Federal Trade Commission (FTC) to adopt rules governing the provision of pay-per-call services. Under the TDDRA, the FCC has jurisdiction over the telecommunications carriers involved in the transmission and billing of the telephone calls, while the Federal Trade Commission has jurisdiction over the information service companies themselves.

The TDDRA generally required pay-per-call services to be provided on 900 telephone numbers and generally prohibited the provision of these services on 800 numbers, except in instances where the caller has entered into a presubscription agreement or comparable arrangement with the information service provider. Pursuant to the Commission's rules, which became effective on September 24, 1993, a presubscription agreement entails a formal contractual understanding whereby the consumer is provided clearly and conspicuously all terms and conditions associated with the use of the service and affirmatively agrees to abide by them.

The Commission has received numerous complaints similar to those described by your constituent. These complaints are processed by the Enforcement Division of the Common Carrier Bureau by serving a copy of the complaint upon the telecommunication carriers involved, who must generally respond in writing within 30 days. Beyond reviewing these

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complaints and pursuing appropriate action to resolve them, the Commission has undertaken several efforts. First, Common Carrier Bureau staff has met with the carriers that provide the billing service for calls to 800 numbers as well as interexchange carriers who provide the 800 number transport to emphasize their obligations under the TDDRA and the rules of the Commission. Secondly, because the increase in the number of complaints has been so significant, we have started an investigation of these practices, with special focus on whether any companies have attempted to evade or violate our rules. Additionally, as part of the effort to make clear the carriers' responsibilities under the law, the Common Carrier Bureau has recently issued a ruling holding that the information provider's receipt of the originating telephone number, a practice that was serving as the premise of some charges, does not in itself constitute a presubscription agreement.

Moreover, on August 2, 1994, the Commission instituted a Notice of Proposed Rulemaking seeking to strengthen Commission rules to prevent abusive and unlawful practices under the TDDRA. Specifically, the Commission has sought public comment on a proposal to require that a presubscription agreement be established only with a legally competent individual and executed in writing, and that common carriers obtain evidence of the written agreement before issuing a telephone bill that contains charges for presubscribed information services. Under the proposed rules, these telephone bills could be addressed only to the individual who actually entered into the presubscription arrangement, not to the person or company whose telephone was used to place the call. The Commission has tentatively concluded that this and other proposed changes would significantly assist in eliminating the source of many consumer complaints. Enclosed is a summary of the Commission's action in this regard.

We appreciate receiving your correspondence. Please call upon us if we can provide any additional information.

Sincerely,

A handwritten signature in dark ink, appearing to read "Kathleen M.H. Wallman". The signature is fluid and cursive, with the first name being the most prominent.

Kathleen M.H. Wallman
Chief
Common Carrier Bureau

Enclosure

ALFONSE M. D'AMATO
NEW YORK

United States Senate
WASHINGTON, DC 20510-3202

1259 FEDERAL BUILDING
P.O. Box 7218
SYRACUSE, NY 13261-7218
(315) 423-5471

OLA
cc 800
cc 900
4053

August 16, 1994

Ms. Lauren J. Belzin
Acting Director, Office of Legislative Affairs
Federal Communications Commission
Room 808
1919 M. Street, N.W.
Washington, D.C. 20554

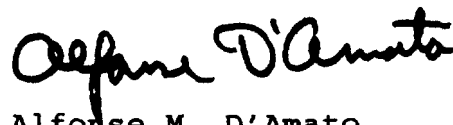
Dear Ms. Belzin:

Because of the desire of this office to be responsive to all inquiries and communications, your consideration of the attached is requested.

Your findings and views, in duplicate form, will be appreciated.

Please reply to my Syracuse office.

Sincerely,



Alfonse M. D'Amato
United States Senator

AMD/mt

Attachment

136 Worth Avenue
Solvay, New York 13209
(315) 488-6996
August 8, 1994

INFO ACCESS, INC.
144 East 39th St., 2nd Floor
New York, New York 10016

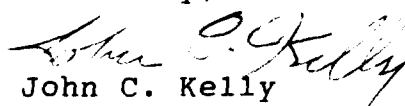
RE: Convenience Call Charges to Account Number,
(315) 488-9188 987 253

To Whom It May Concern:

Enclosed please find a copy of my telephone bill which lists charges incurred for dialing two "800" numbers. These calls were made by my two teenage sons who, like myself, were under the impression that these were Toll-Free Calls. At the time of these calls, there was no information given stating **any charge** associated with dialing these numbers. Obviously, this is a **SCAM!** I was outraged upon receipt of my phone bill. Therefore, I feel that I did not incur any charge and will NOT be paying any amount of money for these calls.

Furthermore, I am also enclosing one of the many recent mailings I have received. I find it very coincidental that I have **NEVER RECEIVED** any mail of this "caliber" prior to these two calls. I am positive that there is a direct correlation between the calls and this **TRASH**. I expect these mailings to cease! If these do not, I will take legal action!

Sincerely,


John C. Kelly

Enclosures (3)

cc: Kathy Kneff

Informational Complaints Branch
FCC, 2025 M St., NW, Washington, DC 20554

Richard Jalkut, President, New York Telephone Company
1095 Avenue of the Americas, New York, NY 10036

Charlie Donaldson, NYS Dept. of Law - Room 3-118
120 Broadway, New York, NY 10272

Sheldon Krantz
Piper & Marbury, 1200 19th St., NW, Washington, DC 20036

Hon. James T. Walsh, Congressman
P.O. Box 7306, Syracuse, NY 13261

✓ Hon. Alfonse M. D'Amato, State Senator
P.O. Box 7216, Syracuse, NY 13261



Account Number: 315 488-9188 987 253

June 19, 1994

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This portion of your bill is provided as a service to Info Access Incorporated. There is no connection between NYNEX and Info Access Incorporated.

Helpful numbers

Billing inquiries call Info Access Incorporated 1-800-645-8830

Summary of Info Access Incorporated charges

Itemized calls		\$59.75
	Federal Tax (3%)	1.79
	Total	\$61.54

Itemized calls

Convenience calls (collect, third number and other operator assisted)

No.	Date	Called from	Called to	Time	Rate	Type	Min.	Amount
Calling number 315-488-9188								
1.	MAY 29	SYRACUS NY 315 488-9188	NATLFONE P HL 800 285-9800	12 39 PM	PE	Operator	5	\$29.75
2.	MAY 29	SYRACUS NY 315 488-9188	NETWORK C LS 800 365-0034	12 44 PM	PERSON	Assist	3	30.00
					PE	Operator		
					PERSON	Assist		
						Sub Total		59.75
						Total		\$59.75

Rate: PE-Person Economy

Dear John ,

H: Sweetheart I'm hoping you'll call me at 1-900-745-7470 now, so we can 'get off' together!! You see, John, I'm one of the 'horniest' women' around, I love wild sexual encounters with men like you. Both Susie Monroe and Jennifer Weldon mentioned that you are a sweetheart and that we should all get together soon!!

John, won't you call me tonight - I'd love to hear from you before I take my shower and rub my entire body with soothing and creamy lotion... Oh, I can 'see' you now; This sexy man with rough masculine edges and ready to please me to the fullest!!

Love You John ,

Melissa

P.S. I have a 'wet and very kinky fantasy' that I would love to share with you John & I'm 'extremely horny' just thinking about it - oh please baby, give me a call now at 1-900-745-7470...

LIVE CONVERSATION BILLED TO YOUR PHONE AT \$3.99 PER MINUTE. SPONSORED BY TELECHARGE AUDIO NETWORK LTD.
FOR ADULTS 18+. FOR CUSTOMER SERVICE, CALL 1-800-879-8800.